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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LERROY J. KELLY,)	Case No.:1:13-cv-00708-SAB (HC)
)	
Petitioner,)	
)	
v.)	<u>ORDER OF TRANSFER</u>
)	
COPENHAVEN,)	
)	
Respondent.)	
)	
)	

Petitioner is proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

Petitioner filed the instant petition for writ of habeas corpus on May 13, 2013. Petitioner is currently incarcerated at the United States Penitentiary in Atwater, California. However, Petitioner is challenging the validity of a state court conviction which occurred in the State of Virginia, County of Stafford. (Pet. at 1.)

The proper venue for challenging the execution of his sentence is the district court containing the sentencing court, while the proper venue to challenge the execution of his sentence is the district court containing the prison in which Petitioner is incarcerated. 28 U.S.C. § 2241(d). Although Petitioner has filed in the proper district court to challenge the execution of his sentence, this petition should be heard by the district court containing the sentencing court. Under 28 U.S.C. § 2254, this Court does not have jurisdiction to hear claims relating to the sentencing court where Petitioner was

1 not sentenced in this district. See 28 U.S.C. § 2241(d); Local Rule 191(f). Additionally, the
2 resolution of Petitioner's claims involving the sentencing court may render his remaining claims moot.

3 Because Petitioner is challenging a conviction from the State of Virginia, County of Stafford,
4 the proper federal court to raise such challenge is the United States District Court for the Eastern
5 District of Virginia, Alexandria Division. Therefore, the petition should have been filed in the United
6 States District Court for the Eastern District of Virginia. In the interest of justice, a federal court may
7 transfer a case filed in the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v.
8 McGuire, 512 F.2d 918, 932 (D.C. Cir.1974).

9 Good cause appearing, IT IS HEREBY ORDERED that:

10 1. This action is transferred to the United States District Court for the Eastern District of
11 Virginia, Alexandria Division; and

12 2. All future filings shall reference the new Virginia case number assigned and shall be filed
13 at:

14 Albert V. Bryan, U.S. Courthouse
15 401 Courthouse Square
16 Alexandria, VA 22314

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19 IT IS SO ORDERED.

20 Dated: May 17, 2013

21 
22 UNITED STATES MAGISTRATE JUDGE